

**BARBERING & COSMETOLOGY EXAMINING BOARD
MINUTES
MADISON, WISCONSIN
JUNE 4, 2001**

PRESENT: Barbara Flaherty, Leon Lauer, Marvile Martin, Bruce Bennett, Laura Jenkins, Denise Svetly

EXCUSED: Lorraine Norem, Karen Kraus, Danny Trotter

STAFF PRESENT: Katharine Hildebrand, Clete Hansen, Wayne Austin, John Schweitzer, Grace Schwingel, Pamela Haack, Judy Mender

GUESTS: Representative Bonnie Ladwig
Numerous other guests

CALL TO ORDER

The meeting was called to order at 9:35 a.m. by Barbara Flaherty, Chair. A quorum of six members was present.

AGENDA

Clete Hansen noted that there are two additional stipulations that have been added to the agenda to be presented during Open Session.

MOTION: Leon Lauer moved, seconded by Denise Svetley, to approve the agenda as published. Motion carried unanimously.

MINUTES (4/2/01)

MOTION: Leon Lauer moved, seconded by Marvile Martin, to approve the minutes as written. Motion carried unanimously.

ADMINISTRATIVE REPORT

Clete Hansen introduced Secretary Oscar Herrera to the Board. Secretary Herrera welcomed the Board members and expressed his appreciation for their dedication and the work they do in licensing and regulating their profession. Secretary Herrera gave the Board an overview of his background. Secretary Herrera has worked with many boards and councils in the past and is looking forward to working with the Board and assisting them in their work of regulating the barbering and cosmetology profession in Wisconsin.

Clete Hansen also introduced Katharine Hildebrand, the new Bureau Director who was appointed by Secretary Oscar Herrera to work with the business boards. Hildebrand came to the Department from the Office of the Governor where she served as Education Policy Director. Hildebrand also served on the Education Team under former Governor Thompson. Alfred Hall, the former Bureau Director, has been appointed to a position in the Department's Division of Enforcement.

Board Roster

It was noted that Hildebrand's e-mail address has been added to the Board Roster, and her telephone number is also listed, which is the same phone number that Alfred Hall had. Bruce Bennett advised the Board that he has a new e-mail address: career@chorus.net. Barbara Flaherty asked that Grace Schwingel, minute taker, be added to the Board Roster, under Department personnel. Clete Hansen also noted that Wayne Austin is replacing John Schweitzer as the Board's Legal Counsel.

Rules Committee Roster

Clete Hansen advised Board members to let Grace Schwingel know of any errors or changes that need to be made to the Rules Committee Roster.

2001 Meeting Dates

The Board noted an updated copy of the 2001 meeting dates. The next meeting is scheduled for August 6, 2001.

To Do List

Noted

Regulatory Digest Draft

The Board suggested putting an article in the Regulatory Digest, stating that tattooing, body piercing, and tanning booths are not in the Board's scope of practice. These activities are regulated by the Department of Health and Family Services (DHFS).

Summary of Reports on Pending Court Cases, Disciplinary Cases and Administrative Rules

Noted

Monthly Press Releases

A sample of the new format for the monthly press releases was reviewed. The press releases will have short summaries of the disciplinary actions that were taken during the previous month and will identify orders by the name, credential type, and city of the respondent, as well as the name of the Board that initiated the disciplinary action. Secretary Herrera approved this change in the Department's policy on press releases to provide the public with more complete information about disciplinary actions and to treat all disciplinary actions consistently in agency news releases.

To Pass Folder

The To Pass Folder was circulated and duly noted.

Barbara Flaherty welcomed Representative Bonnie Ladwig to discuss Assembly Bill 224 with the Board concerning certification for providing shampoo services in a salon. Representative Ladwig referred to the Board's May 25, 2001, letter to her. The letter had asked questions concerning the revised definition of barbering and cosmetology, the scope of practice for obtaining a shampooing certificate under the proposed revisions, and the assessment of whether a candidate meets minimum competency requirements. Representative Ladwig indicated her willingness to add an amendment to the bill, stating that the shampooing in question would have to be performed in a licensed establishment. The bill would permit people to practice shampooing in a salon after they had successfully completed 16 hours of training in shampooing procedures, thus meeting the requirements for obtaining a shampooing certificate. Under AB 224, the Board would be responsible for ensuring that candidates have met minimum competency requirements and, if so, to grant the shampooing certificate.

Board members indicated they were in favor of having a shampoo certificate, but they had concerns that 16 hours of training would not be sufficient to cover all the issues that a candidate would need to understand, before the candidate could provide services to clients of a salon. Schools and apprenticeship programs require many more hours before a candidate would even be able to serve a client. A major issue would be safety and sanitation issues. Other concerns Board members had involved a candidate's ability, after having only 16 hours of training, to do an initial analysis of the hair, to understand, and recognize infectious diseases and other problem skin conditions, to determine the appropriate type of shampoo or conditioner to use on the client, and to comb out the hair. In addition, board members felt there would be a very high likelihood that certificate holders would be asked, as a matter of expediency, to extend the scope of practice of shampooing into other areas, such as rinsing out colors, perms, and other procedures involving chemicals.

Representative Ladwig said that the idea behind this bill was in part prompted by the low unemployment rate which makes it difficult to hire employees and to give potential candidates the opportunity to see if they would like this type of work before they invest two years of training to get the required certificate. There was a concern on the part of Board members that hiring a person to work in a salon, who could only do regular shampoos, would not be economically feasible for the salon. The Board favored requiring a student to complete 285 hours of training in order to be able to give the student enough skills to make it economically viable for the salon to hire the person. It was noted that in order to get a full license, a person must satisfactorily complete 1,800 hours. In order for it to be worthwhile for the salon owner to hire a person to work in his or her salon, the candidate would need to be able to provide more services than simply giving shampoos.

The Board was also concerned that certificate holders would not be subject to periodic renewal of their credential as is required of other professionals in the barbering and cosmetology profession. The Board felt a shampooing credential holder should be held to the same standards required of other salon professionals who must renew their professional credential every two years. The Board felt the training could be obtained from either a school or an apprenticeship program. The Board noted that the scope of practice of other states is larger than simply providing shampoo services. Representative Bonnie Ladwig, as the principal author of the bill, will discuss the Board's concerns with her constituents and the Chair of the Committee on Labor and Workforce Development.

MOTION: Leon Lauer moved, seconded by Marvile Martin, to withhold the Board's support of Assembly Bill 224 in its present form. Motion carried unanimously.

LRB -2591/1- Relating to Education Requirements for Barber, Cosmetologist, Barber Manager, Cosmetologist Manager, Aesthetician, Electrologist and Manicurist Licenses.

MOTION: Bruce Bennett moved, seconded by Marvile Martin, to approve LRB-2591/1, an Act to amend 454.06 (2)(b), (3)(b), (4)(b), (5)(b), and (6)(b) of the Wisconsin Statutes, relating to the education requirements which would allow a person to satisfy Wisconsin's educational requirements at a school in another state that is approved by the Board for the professions of Barber, Cosmetologist, Barber Manager, Cosmetologist Manager, Aesthetician, Electrologist and Manicurist licenses. Motion carried unanimously.

LRB-2592/1 Relating to Eligibility Requirements for Licenses Granted by the Barbering and Cosmetology Examining Board and Disciplinary Action Taken By the Board.

MOTION: Denise Svetly moved, seconded by Leon Lauer, to approve LRB-2592/1, an Act to amend 545.06 (1)(b) and 454.15(2) of the Wisconsin Statutes, relating to eligibility requirements for licenses granted by the Board and disciplinary action taken by the Board indicating that the circumstances of a felony in either of these situations must substantially relate to the profession that is the subject of the license. Motion was carried unanimously.

ADMINISTRATIVE RULES UPDATE

Revision of Intermediate and Low Level Disinfection Rules.

The Board reviewed the proposed rules relating to statutory definitions of terms used in the professions regulated by the Board. Legal Counsel clarified issues that were raised by the Board and will make any changes necessary as discussed by the Board.

Change of Rule Regarding Booth or Chair Rental at the Same Location.

MOTION: Bruce Bennett moved, seconded by Leon Lauer, to approve the proposed revision of BC 3.04 and 3.06, which allow a booth renter to relocate within an establishment without treating it as a change of location requiring a new establishment license. Motion carried unanimously.

Waiver of Manager Requirements For Establishments Having Difficulties Actively Recruiting Managers.

The Board indicated it would like to add an additional phrase to the proposed revision of Section BC 2.06(5). The last sentence in that section should read " If the manager of an establishment leaves employment or becomes otherwise unavailable, an owner may continue to operate the establishment for no more than 90 days without a manager, *if the owner is making reasonable efforts to employ a manager; this does not apply if an apprentice is employed by the establishment*"

MOTION: Leon Lauer moved, seconded by Marvile Martin, to approve proposed revisions to BC 2, 3, and 4. which would allow an establishment to temporarily operate without a licensed manager, and to accept the rule with the change listed above. Motion carried unanimously.

Issuing and Processing Citations for Disciplinary Forfeitures

The Division of Enforcement had requested authority to issue a citation to avoid having to bring a licensee into a disciplinary procedure in order to impose a forfeiture. Wayne Austin, Legal Counsel, indicated that the statute treats a forfeiture as a disciplinary alternative to a reprimand, a limitation, suspension or a revocation of a license. Under this proposal the Board would delegate its authority to initiate a disciplinary proceeding and impose a disciplinary action without the Board's involvement.

The Board informally decided to table this issue until the next meeting to make a decision on this matter, giving Legal Counsel more time to investigate the feasibility of this proposal. Steve Gloe could also provide some additional information.

Prohibited Use of Methyl Methacrylate (MMA)

MOTION: Bruce Bennett moved, seconded by Leon Lauer to accept the revision of BC 2.03, to prohibit licensees from using methyl methacrylate monomer, commonly referred to as "MMA" in liquid form, and to prohibit licensees from using any cosmetic or nail product formulated with MMA as one of its ingredients. Motion carried unanimously.

BOARD MEMBER ACTIVITY

Strategic Plan Follow-up: Planning for the Future Update.

Attempts to have a representative of the IRS address the Board have been unsuccessful so far. Clete Hansen suggested that Katharine Hildebrand could follow up on this request.

Recommendation of the Manicurists, Aestheticians, and Electrologists Scope of Practice Advisory Committee.

With the transition between Department Secretaries, the Advisory Committee has not met recently. The Board reviewed the recommendations of the Committee. The Board requested Legal Counsel to draft the rules relating to medical delegation and referral.

MOTION: Denise Svetly moved, seconded by Leon Lauer, to request a scope statement for a rule regarding posting of supervisory authority for any medical procedures. Motion carried unanimously.

MOTION: Leon Lauer moved, seconded by Marvile Martin, to request a statutory change to allow aestheticians, manicurists and electrologists with appropriate levels of education and training to practice laser hair removal, waxing, microdermabrasion, and chemical peels. Motion carried unanimously.

MOTION: Leon Lauer moved, seconded by Bruce Bennett, to request a rule change to add a note to the rules indicating that tattooing, body piercing, and tanning booths are not in the Board's scope of practice, but they are regulated by the Department of Health and Family Services (DHFS). Motion carried unanimously.

The Board agreed to form a sub-committee made up of board members Barbara Flaherty, Karen Krause, Denise Svetly, and Marvil Martin to review continuing education requirements for all barbering and cosmetology professions. This Committee will present a preliminary report to the Board at the October meeting.

MOTION: Denise Svetly moved, seconded by Leon Lauer, to create a rule to define the use of lancets by aestheticians and to specify the proper method for disposal of used lancets. Motion carried unanimously.

MOTION: Denise Svetly moved, seconded by Leon Lauer, to create a rule defining when licensees may use chemical fields or exfoliants. Motion carried unanimously.

MOTION: Leon Lauer moved, seconded by Denise Svetly, that the scope of cosmetic massage and manicuring, include the foot, up to and including the knee, and the hand, up to and including the elbow. Motion carried unanimously.

MOTION: Bruce Bennett moved, seconded by Leon Lauer, to change the wording in the statutes to utilize current terminology, as it is used in the professions, e.g.: nail technology, nail technician, and nail enhancement. Motion carried unanimously.

MOTION: Denise Svetly moved, seconded by Leon Lauer, to clarify that nail art may only be performed by a licensed manicurist. Motion carried unanimously.

MOTION: Leon Lauer moved, seconded by Denise Svetly, to clarify BC 4.10, to indicate that only a licensed manicurist may cut nails and cuticles. Motion carried unanimously.

PRACTICE ISSUES

Continuing Education

Noted

Request to Teach Internet Training, 5/7/01, Dalton

The Board requested more details regarding the letter dated May 7, 2001, from Mary Dalton, as to the specifics of how training would be done, using technology, the Internet and videotapes, to train students to learn barbering and cosmetology principles. The Board requested Judy Mender to contact Mary Dalton to clarify how the hands on, practical part of the training program would be met and evaluated. Other questions that need clarification are: Would this program be sold to students? Would it be a complement to the program La Quita is already teaching or does Ms. Dalton intend to start a mail order B/C School? Judy Mender will send Mary Dalton an outline of the 1,800 hour program, to see how all of those areas would be included in her proposal.

Students Transferring from Apprenticeship Program, 5/7/01, Nickel

The Board discussed the concern that the Wisconsin College of Cosmetology, Inc., (WCC) has in being required to grant credit to transfer students without testing them to determine their level of knowledge or accomplishment. According to Rule 6.05, if WCC, or any school, accepts an apprentice as a transfer student, they must grant credits to that student. The Board agreed that WCC, or any school, can decline to take any apprentices as transfer students who request credit for any of their previous hours of training.

Summary of Microdermabrasion Transdermal Hair Removal Presentation (2/4/01 Board Minutes)

It was noted that this item, the title on 8d. of the agenda, should have the words "Transdermal Hair Removal" deleted so that the title reads "Summary of Microdermabrasion Presentation (2/4/01 Board Minutes).

Summary of Presentation and Testimony, 2/22/01, Windschiel

Noted

APPRENTICESHIP PROGRAM

Meeting Concerning Apprentices, 4/4/01, Hansen

The Board discussed the issue of allowing apprentices, or someone on a temporary permit, to rent a booth, and to make it clear that a salon could be disciplined by the Board for requiring apprentices to pay the salon. The Board decided to table this issue until the next meeting to gather more information and avoid having to make duplicate changes to the rule. The Board has no record of which salons are renting booths. Currently, the Department's computer system does not distinguish between a stand-alone business or a rental within an existing business. This information is provided in the application, which is kept on file in the Department for a year, but this information is not entered into the computer. The Board requested that this issue--reviewing the need for an establishment license as it affects the apprenticeship program and tax issues--be on the next meeting's agenda.

EXAMINATION ISSUES

Preliminary Report on April Review of Written Examination Questions

Darwin Tichenor, of the Exam Office, gave a brief report on the written exams given by the Department. Every five years, a comprehensive review is made of the written exams to ensure that they are up to date, accurate, and reflect current practices. For the practitioner written examination, a survey is done to confirm the general content of the exam. A substantial review of the questions in the exam is also made. The most recent review was done on April 22, 23, 2001, in Brookfield, Wisconsin. Barbara Flaherty and Leon Lauer attended this review. The Exam Office will be compiling a detailed analysis later this month, to be provided to Board members and sent out to schools.

DIVISION OF ENFORCEMENT

Noted

LEGAL COUNSEL REVIEW OF TELEPHONE INQUIRIES

Noted

MISCELLANEOUS CORRESPONDENCE/INFORMATION

MMA Prohibition Being Taught in Schools

It was noted that MMA Prohibition is now being taught in schools. A guest at the Board meeting stated that the material presented in the Media Contact form, from Stacy Radke, reporter, was inaccurate and the Board suggested that she contact Ms. Radke and let her know that the information she had presented to the Board was inaccurate.

Milwaukee Area Technical College Externship Program, Krause

The Board decided to table this item and put it on the agenda for the next Board Meeting on August 6, 2001, when Karen Krause is present, since she is the contact person on the Externship Program. The Board expressed its appreciation for the excellent report and the thoroughness of the Extern Performance Evaluation prepared by the Barbering and Cosmetology Advisory Committee.

Response to Report: M. Fortuitum in Pedicure Soak - 100 Affected Customers, 5/16/01, Druckenmiller

The Board would like to gather more information and have this item put on the agenda for the next Board Meeting.

Questions Relating to Rubbing Alcohol Use, Svetly

Noted

Disinfecting of Cushioned Nail Files, 4/24/01, Rudolph

The Board noted that this is covered by a rule.

NEW BUSINESS

Since the Barbering & Cosmetology Examining Board Rules Committee has not met recently, the Board would like to schedule a meeting of the Committee. The members of this Committee are Barbara Flaherty, Bruce Bennett, Lorraine Norem, and Denise Svetly. The Committee had been set up to consider different concepts that could be implemented to take the practice of Barbering & Cosmetology to even higher levels of professionalism to reflect changes that are taking place in the industry.

About 2 1/2 years ago, a board member met with representatives of Living Enterprises High School in Milwaukee. The proposal was to have high school juniors and seniors registered as barbering and cosmetology apprentices and to conduct business in the high school building as part of the program. The representative of Living Enterprises High School could contract with a private barbering & cosmetology school near them to work with the high school program. The Board would like to have more information on this item and have it put on the agenda for the August meeting.

PRESENTATION OF PROPOSED STIPULATIONS BY PROSECUTORS

DOE staff presented the following stipulations: Danielle Krueger (Waukesha); Kenneth J. Olsen Oly's, Barber Shop (Bayfield); Deanna R. Finley, Great Clips (Delavan); Avery Meeks and Anthony L. Oliphant, Sr., Exodus Salon (Milwaukee); Khen Tri, Kimberly Nails (Middleton); Antonio H. Le,

Glarour Nails (Green Bay); Long B. Dam, Nail Expo (Milwaukee). The Board will deliberate on these stipulations in Closed Session and will vote on them in Open Session.

CONVENE TO CLOSED SESSION

MOTION: Leon Lauer moved, seconded by Marvile Martin, to convene the meeting in Closed Session pursuant to Sections 19.85(1)(a), (b), and (f), Wis. Stats., to consider the licensing or discipline of a person licensed by the Board or the investigation of charges against such a person. Specifically, to discuss the issue of case status report, case closings and stipulations. Motion carried by a roll call vote: Bruce Bennett-yes; Laura Jenkins-yes; Leon Lauer-yes; Marvile Martin-yes; Denise Svetly-yes; and Barbara Flaherty-yes.

Open Session recessed at 1:00 p.m.

CLOSED SESSION

The Board deliberated on case closings, stipulations, and disciplinary actions. All case advisors for stipulations left the room during the Board deliberations related to their stipulations.

ADJOURN CLOSED SESSION

By consensus, the Board reconvened in Open Session at 2:05 p.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

It was decided that case advisors would not vote.

MOTION: Leon Lauer moved, seconded by Denise Svetley to accept the Stipulation, Findings of Fact, Conclusions of Law and Order in the matter involving the following stipulations. Motions carried unanimously.

Danielle Krueger (Waukesha) - 00 BAC 006 - \$1,000 forfeiture.

Kenneth Olsen d/b/a Oly's Barber Shop (Bayfield) - 00 BAC 060 - \$1,000 forfeiture.

Deanna R. Finley d/b/a Great Clips (Delavan) - 00 BAC 089 - \$200 forfeiture.

Avery Meeks and Anthony L. Oliphant, Sr., d/b/a Exodus Salon (Milwaukee) - 99 BAC 082 - \$1,000 forfeiture.

Khen Tri d/b/a Kimberly Nails (Middleton) - 01 BAC 005 - \$400 forfeiture.

Antonio H. Le d/b/a Glamour Nails - 00 BAC 099 - \$100 forfeiture.

Long B. Dam, Nail Expo - 00 BAC 095 - \$2,400 forfeiture.

CASE CLOSINGS

MOTION: Leon Lauer moved, seconded by Marvile Martin to close the following cases presented by the Division of Enforcement. Motion carried unanimously.

Cynthia Thomas presented the following cases:

00 BAC 056 - P3

00 BAC 057 - IE

00 BAC 059 - P3

01 BAC 006 - P2

01 BAC 007 - P2

Michelle Krisher presented the following cases:

99 BAC 085 - NV

00 BAC 021 - IE

00 BAC 036 - P5

00 BAC 070 - IE

00 BAC 037 - P5

Ralph Draeger presented the following cases:

00 BAC 055 - P7 (Yvonne Greer, Eric Parr, Juliet Clark, Fresh Cutz Plus

ADJOURNMENT

MOTION: Leon Lauer moved, seconded by Denise Svetley, to adjourn the meeting at 2:20 p.m.
Motion carried unanimously.